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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/701,844	Confirmation: 3069
Applicants	:	W. James JACKSON et al	
Filed	:	November 4, 2003	
TC/A.U.	:	1645	
Examiner	:	Baskar, Padmavathi	
Docket No.	:	71515.096.999	
Customer No.	:	35161	
For	:	Chlamydia PMP Proteins, Gene Sequences and Uses Thereof	

ELECTION/RESTRICTION

MAIL STOP: FEE AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement mailed January 30, 2006 under 35 U.S.C. § 121, the date for response to which is extended by one month, from February 28, 2006 to March 30, 2006, a Petition for Extension of Time and the appropriate fee, Applicants hereby provisionally elect with traverse for prosecution in the present Application, **Group I, claims 26 and 27, drawn to an antibody or a monoclonal antibody that specifically binds to a *Chlamydia* HMW protein encoded by nucleic acid SEQ ID.No: 1 or corresponding polypeptide SEQ ID. No: 2 or portions thereof.** Non-elected claim 28 is withdrawn.

If any independent claims are allowed, we request the removal of the Restriction Requirement for any claims that are dependent as originally filed from the allowed independent claims in this application. Further, if any product claims are allowed, we request the removal of

the Restriction Requirement for any process claims that depend from or otherwise include all the limitations of the allowable product claim under MPEP 821.04.

TRAVERSAL

Applicants submit that, according to MPEP 803, a proper Restriction Requirement must meet two criteria:

(1) the inventions must be independent or distinct as claimed, and

(2) there must be a serious burden on the examiner if restriction is not required.

Further, the present Action states that the inventions can be shown to be distinct if either both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product under MPEP 806.05(h).

The claims have now been divided into six Groups. The present Action states the antibodies can be used for treating Chlamydia infections, demonstrating the product as claimed can be used in a materially different process of using that product. Additionally, the relationship among the Groups shows the separately claimed antibodies of Groups I-III can be used in the methods of Groups IV-VI.

Applicants respectfully traverse the Restriction of the claims in the present Action. Applicants submit that no serious burden would be placed on the Examiner to examine all of the claims since any reference that discloses the *Chlamydia* proteins would necessarily also need to disclose the potential uses of proteins having immunogenic properties. It is also pointed out that a search for the methods of detecting *Chlamydia* in a test sample would by necessity encompass a search for the polypeptide HMW proteins and antibodies thereto. Therefore,

Applicants submit the antibodies and the methods of use comprising the immunogenic properties are not independently distinct and as such, a restriction requirement is not proper (see MPEP 806.05 (h)).

In addition, Applicants submit there would certainly be no serious burden on the Examiner to search combined Groups I through III, since the same patentable issues would be considered in examining these closely related Groups. Applicants wish to point out the claimed Chlamydial antibodies specifically bind to the proteins in Groups I through III, and are very closely related in structure as disclosed in Figure 6. Figure 6 shows a very high degree of sequence conservation, all having the same or very closely related functional properties. Many antibodies drawn to the claimed Chlamydia polypeptide sequences will be cross-reactive, thus a search of one of these Groups I through III will inherently encompass most or all of the searching necessary for the other groups. Moreover, Groups I through III are all classified in the same Class and subclass further evidencing the combination of these Groups would not place a serious burden on the Examiner.

For these reasons, Applicants respectfully request the Examiner to reconsider the restriction requirement of the present Action, or in the alternative, to at least include Groups I through III for examination.

If this restriction requirement is made FINAL, Applicants preserve the right of petition from this Requirement for Restriction under 37 C.F.R. §1.144 and Applicants reserve the right to file one or more continuing applications on the withdrawn claim.